

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDC 13-02 Early Learning

SPONSOR(S): Education Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Ammel	Mizereck

SUMMARY ANALYSIS

The bill makes governance changes and increases accountability and transparency in the administration of the Early Learning Program by:

- Moving the School Readiness Program from Chapter 411 to the school code under Chapter 1002.
- Establishing the Office of Early Learning (OEL) within the Department of Education under an Executive Director that is fully accountable to the Commissioner of Education; providing powers and duties.
- Providing that the OEL will exercise independently all power, duties, and functions prescribed by law and must not be construed as part of the K-20 system.
- Clarifying that participation in the school readiness program does not expand the regulatory authority of the state, its officers, or an early learning coalition to impose any additional regulation on providers beyond those necessary to enforce the requirements outlined for this program.
- Requiring the OEL to: adopt a list of approved curricula and a process for the review and approval of a provider's curriculum that meets the performance standards; identify a preassessment and postassessment for School Readiness participants; adopt a statewide, standardized contract to be used by coalitions with each school readiness provider; coordinate with other agencies to perform data matches on individuals or families participating in the school readiness program.
- Revising procurement and expenditure requirements for early learning coalitions.
- Removing the requirement for the annual submission of a funding formula by OEL.
- Revising the methodology for calculating the market rate schedule to require that the OEL biennially calculate the market rate at the average of the market rate by program care level and provider type in a predetermined geographic market.
- Revising the eligibility criteria for the enrollment of children in the school readiness program.
- Providing for the allocation of school readiness funds as specified in the General Appropriations Act.
- Requiring the OEL and each ELC to limit its expenditures to no more than 20 percent of funds for any combination of administrative costs, nondirect services, and quality activities in 2013-14, and beginning 2014-15 and thereafter, no more than 18 percent.
- Including provisions for fraud investigations and penalties for school readiness providers and parents who knowingly submit false information related to child eligibility and attendance in a school readiness program.
- Requiring private prekindergarten providers to maintain liability insurance coverage and the necessary business requirements to legally operate a business in the state, including any required worker's compensation and unemployment compensation.
- Requiring the Early Learning Advisory Council to periodically analyze and provide recommendations to the office on the effective and efficient use of local, state and federal funds; the content of instructor training programs; and best practices for the development and implementation of coalition plans.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Readiness Program

Established in 1999,¹ the School Readiness Program provides subsidies for early childhood education and child care services to children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.² The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (OEL) and the Office of Child Care of the United States Department of Health and Human Services.³

The School Readiness Program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families (TANF) block grant, and general revenue and other state funds.⁴

For FY 2012-13, a total of \$581.5 million was appropriated for the School Readiness Program from state and federal funds, including \$341.7 million from the CCDF block grant, \$98 million from the TANF block grant, \$141.2 million from the state's General Revenue Fund, and \$500,000 from other federal fund sources.⁵ As part of the other state and federal funding sources, OEL was provided \$5.9 million for the continued development of a computerized data system known as the Early Learning Information System (ELIS).⁶

Office of Early Learning

Current Law

The OEL is Florida's lead agency for administering the federal CCDF from which funds are used to implement the School Readiness Program.⁷ Effective July 1, 2011, the OEL was transferred from the former Agency for Workforce Innovation to the Department of Education (DOE).⁸ The OEL is a separate budget entity and is not subject to control, supervision, or direction by the DOE or the State Board of Education in any manner including, but not limited to, personnel, purchasing, transactions involving personal property, and budgetary matters.⁹

Florida law directs OEL to establish a unified approach to the state's school readiness efforts by adopting specific system support services for the state's school readiness programs.¹⁰ System support services include:

- Child care resource and referral services.
- Warm-Line services.¹¹
- Eligibility determinations.

¹ See s. 1, ch. 99-357, L.O.F.

² Section 411.01(6), F.S.

³ See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, <http://www.acf.hhs.gov/programs/ccb/ccdf/factsheet.htm> (last visited January 20, 2012).

⁴ Specific Appropriation 2033, s. 6, ch. 2011-69, L.O.F.

⁵ *Id.*

⁶ Specific Appropriation 75 & 82A, s. ch. 2012-118, L.O.F.

⁷ Section 411.01(4)(c), F.S. The law directs the Governor to designate OEL as the lead agency for administering the CCDF. *Id.*

⁸ ch. 2011-142, L.O.F.

⁹ Section 20.12(3)(h), F.S.

¹⁰ Section 411.01(4)(d)3., F.S.

¹¹ OEL is required to contract with the "statewide resource information and referral agency" to establish a statewide toll-free Warm-line for the purpose of assisting child care providers in serving children with disabilities and special needs. Section 402.3018, F.S.

- Child performance standards.
- Child screening and assessment.
- Developmentally appropriate curricula.
- Health and safety requirements.
- Statewide data system requirements.
- Rating and improvement systems.¹²

Additionally, OEL must develop and adopt performance standards and outcome measures for school readiness programs. Child performance standards must describe age-appropriate expectations for what a child in the School Readiness Program should know and be able to do. The standards for children from birth to age five must be integrated with the performance standards adopted by the Department of Education (DOE) for the Voluntary Prekindergarten Education (VPK) Program.¹³ ELC administered programs must be aligned to these performance standards.¹⁴

Florida's OEL coordinates the Early Learning Coalitions (ELCs) at the state level.¹⁵ The office must approve ELC school readiness plans, review the plans every two years, and monitor plan implementation.¹⁶ Additionally, Florida's OEL must provide technical assistance and training to the ELCs and monitor and evaluate their administration of the School Readiness and VPK programs.¹⁷

Early Learning Coalitions

Current Law

Each ELC administers the School Readiness Program,¹⁸ the VPK Program,¹⁹ and the state's child care resource and referral network in its county or multicounty region.²⁰ There are currently 31 ELCs.²¹ Each ELC is governed by a board of directors comprised of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.²²

Each ELC must serve a minimum of 2,000 children based upon the monthly average number of children served by the coalition's school readiness program during the previous 12 months.²³ If the number of children served by an ELC falls below this level, it must merge with another ELC to form a multicounty coalition.²⁴ Florida's OEL must waive the merger requirement if certain criteria are met.²⁵

¹² Section 411.01(4)(d)3.a.-i., F.S.

¹³ Section 411.01(4)(d)8., F.S.; *see also* Office of Early Learning, *Birth to Five Performance Standards*, <http://www.flbt5.com/selection.aspx> (last visited Jan 22, 2012). The performance standards must address the following school readiness skills: compliance with rules, limitations, and routines; ability to perform tasks; interactions with adults; interactions with peers; ability to cope with challenges; self-help skills; ability to express the child's needs; verbal communication skills; problem-solving skills; following of verbal directions; demonstration of curiosity, persistence, and exploratory behavior; interest in books and other printed materials; paying attention to stories; participation in art and music activities; and ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships. Section 411.01(4)(j), F.S.

¹⁴ Section 411.01(5)(c)1.a., F.S.

¹⁵ Section 411.01(4)(a), F.S.

¹⁶ Section 411.01(4)(d)2., F.S.

¹⁷ Section 411.01(4)(d)6., (l) and (n), F.S.; *see also* ss. 1002.55(1) and 1002.61(1)(b), F.S. Florida's OEL and the ELCs must coordinate with the Department of Children and Family Services to minimize duplicating interagency activities, health and safety monitoring, and acquiring and composing data pertaining to child care training and credentialing. Section 411.01(4)(d)7., F.S.

¹⁸ Section 411.01(5), F.S.

¹⁹ Sections 1002.55(1) and 1002.61(1)(b), F.S.

²⁰ Section 411.0101, F.S.

²¹ Florida's Office of Early Learning, *Early Learning Coalition Directory (Revised 3/23/2012)*, http://www.floridaearlylearning.com/EarlyLearning/OEL_Coalitions_CoalitionsDirectory.html (last visited April 20, 2012). Florida law permits the establishment of 31 or fewer ELCs. Section 411.01(5)(a)2.a., F.S.

²² Section 411.01(5)(a)4.-6., F.S.

²³ Section 411.01(5)(a)2.b., F.S.

²⁴ Section 411.01(5)(a)3., F.S. Florida's OEL must adopt procedures for merging ELCs. *Id.*

In order to participate in the School Readiness Program, each ELC must submit a school readiness plan to Florida's OEL for approval.²⁶ The plan must demonstrate how ELC-offered programs will be aligned to statutory requirements, performance standards, and outcome measures. The plan must address how instruction will enable children birth through five years of age to meet the performance standards.²⁷ Florida's OEL must adopt rules establishing school readiness plan approval criteria²⁸ which, among other things, must include:

- A community plan that addresses the needs of eligible children and providers within the coalition's county or multicounty region.
- A sliding fee scale establishing a copayment for parents based upon their ability to pay, which is the same for all program providers.²⁹
- A choice of settings and locations in licensed, registered, religious-exempt, or school-based programs to be provided to parents.
- Child eligibility priorities.
- Performance standards and outcome measures adopted by Florida's OEL.
- Payment rates adopted by the ELCs and approved by Florida's OEL.
- Direct enhancement services for families and children.³⁰
- The business organization of the ELC.
- The implementation of locally developed quality programs in accordance with the requirements adopted by Florida's OEL regarding the expenditure of funds for improving the quality of child care.³¹

An ELC with an approved school readiness plan must implement a comprehensive system of school readiness services which enhance children's attainment of Florida's OEL-adopted performance standards and outcome measures.³² School readiness programs within each ELC's service area must include, among other things, use of a developmentally appropriate curriculum, age appropriate developmental assessment, and a pre- and post-test administered to children as they enter and leave the program; character development education; appropriate staff to child ratios; a healthy and safe learning environment; and a parental resource and referral network.³³

Florida law requires each ELC to include a "choice of settings and locations in licensed, registered, religious-exempt, or school-based programs."³⁴ A wide range of public and private providers of early childhood education and child care services participate in the School Readiness Program, including:

- Public and private schools;

²⁵Section 411.01(5)(a)3.a.-c., F.S. Florida's OEL must waive the merger requirement if it determines that the ELC has substantially implemented its school readiness plan; the ELC demonstrates to Florida's OEL its ability to effectively and efficiently implement the VPK Program; and the ELC demonstrates to Florida's OEL its ability to perform its duties in accordance with the law. *Id.*

²⁶ Section 411.01(5)(d)1., F.S.

²⁷ Section 411.01(5)(d)2.a.-b., F.S.

²⁸ Florida's OEL held rule workshops for the school readiness plan in February 2012 and received the transcript from the workshop on March 14, 2012. Florida's OEL staffs are in the process of analyzing comments and preparing rule. E-mail, Florida's Office of Early Learning (Aug. 21, 2012).

²⁹ Each ELC is required to adopt, subject to approval by Florida's OEL, a copayment charged to the parent of a child enrolled in the School Readiness Program. Section 411.01(5)(d)1. and 4.b., F.S.; The co-payment is based on the parent's income and family size. Rule 6M-4.400(1), F.A.C. A School Readiness Program provider receives payment for school readiness services from the ELC and is responsible for collecting the co-payment directly from the parent. Rule 6M-4.401, F.A.C. A School Readiness Program provider is not prohibited from charging parent fees in addition to the co-payment. Rule 6M-4.400(4), F.A.C.

³⁰ "Direct enhancement services for families may include parent training and involvement activities and strategies to meet the needs of unique populations and local eligibility priorities. Enhancement services for children may include provider supports and professional development approved in the plan by [Florida's] OEL." Section 411.01(5)(d)4.g., F.S.

³¹ Section 411.01(5)(d)4., F.S.

³² Section 411.01(5)(c)1.a. and (d)1. and 2., F.S.

³³ Section 411.01(5)(c)2., F.S.

³⁴ Section 411.01(5)(d)4.c., F.S.

- Licensed child care facilities and large family child care homes;
- Licensed and registered family day care homes;
- Faith-based child care facilities and after-school programs, which are both exempt from licensure; and
- Informal providers³⁵ (e.g., in-home and relative care).³⁶

In FY 2011-12, a total of 10,844 child care providers participated in the School Readiness Program, including 1,013 public schools; 6,508 private providers; and 3,043 family day care homes. Of these providers, 836 were faith-based.³⁷

Child care providers who provide school readiness services are regulated by the Department of Children and Families (DCF).³⁸

Effect of Proposed Changes

Governance

The bill establishes the Office of Early Learning within the Department of Education under the administration of an Executive Director who is fully accountable to the commissioner. The office will administer the school readiness and voluntary prekindergarten programs at the state level. The office must exercise independently all power, duties, and functions prescribed by law and must not be construed as part of the K-20 system. Moreover, participation in the school readiness program does not expand the regulatory authority of the state, its officers, or any early learning coalition to impose any additional regulation on providers beyond those necessary to enforce the requirements of law.

Accountability

The bill implements numerous accountability measures across several aspects of the school readiness program. Each area presented below outlines new provisions included in the bill.

Office of Early Learning

In addition to current responsibilities, the bill requires the OEL to:

- Adopt by rule a standard statewide provider contract to be used with each school readiness and VPK provider.
- Adopt of a uniform chart of accounts.
- Coordinate with other state and federal agencies to perform data matches.
- Establish procedures for the annual calculation of the prevailing market rate.
- Adopt program support services that include specific statewide data requirements.
- Provide technical assistance to coalitions on anti-fraud plans, training and support for parental involvement in children's early education; and family literacy activities and services.
- Develop and adopt a health and safety checklist for licensed exempt providers.
- Select instruments for pre- and post-assessment for the age ranges specified in the coalition's plans.
- Include provisions for probation, termination for cause, and emergency termination of a provider's contract by a coalition in the office's standard statewide provider contract.

³⁵ Florida's Office of Early Learning, Child Care and Development Fund State Plan, *CCDF Plan FFY 2012/13 Part 3-Health and Safety and Quality Improvement Activities*, available at http://www.floridaeearlylearning.com/EarlyLearning/OEL_SysDev_CCDF.html.

³⁶ Section 411.01(5)(d)4.c., F.S. Federal regulations governing the CCDF block grant, in effect, require the School Readiness Program to serve children in center-based child care, group home child care, family child care, and in-home child care. 45 C.F.R. s. 98.30(e)(1); see also *supra* note 53, at 3.

³⁷ Email, Office of Early Learning (Apr 4, 2013).

³⁸ Chapter 402, F.S.

- Adopt standardized monitoring procedures for coalitions to use when monitoring providers.
- Collaborate with the Bureau of Federal Education Programs within the Department of Education to coordinate readiness and voluntary prekindergarten services to the populations served by the bureau, including students served through the homeless education program.
- Provide for the administration of the statewide toll-free Warm-Line to be contingent upon appropriations.
- Administer the operational requirements of the Voluntary Prekindergarten (VPK) Education program.

The OEL will continue establishing a unified approach to coordinate a comprehensive early learning program and adopt specific program support services for school readiness programs, including:

- A statewide data information program that includes:
 - Eligibility requirements.
 - Financial reports.
 - Program accountability measures.
 - Child progress reports.
- Technical assistance and guidance on additional support services that compliment the school readiness programs, including:
 - Rating and improvement systems.
 - Warm-Line services.
 - Anti-fraud plans.
 - Child performance standards.
 - Child screening and assessments.
 - Training and support for parental involvement in children's early education.
 - Family literacy activities and services.

The OEL has developed and adopted performance standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. The standards are aligned with the performance standards adopted for children in the VPK program, which replaced current requirements with a much more robust set of child expectations for children, birth to five years of age.³⁹

Early Learning Coalitions

The bill revises the membership of the ELCs by removing a representative from a central agency as a member of the coalition, and updates terminology to include a president of a Florida College System institution, rather than a community college representative. The bill outlines the following specific duties and responsibilities of an ELC:

- Implement an age-appropriate pre- and post-assessment of children, as specified in the coalition's plan.
- Require a parent to be in good standing on copayment obligation with a provider prior to transferring to another provider.
- Specify instances in which a parent copayment can be waived.
- Provide a timeframe for attendance records to be altered or amended.
- Comply with federal and state procurement requirements.

³⁹ Email, Office of Early Learning (April 5, 2013). Also see Florida Early Learning and Developmental Standards for Four-Year-Olds (2011) – List of Standards and Benchmarks at <http://flbt5.floridaearlylearning.com/>.

- Provide proper information technology controls.
- Develop written procedures for monitoring vendor contracts.
- Monitor providers on an annual basis, using the standard monitoring tool adopted by the office.
- Monitor providers to be determined high-risk more frequently; providers with three consecutive years of compliance may be monitored biennially.
- Implement an anti-fraud plan addressing specific components.
- Specify components for the annual report that is submitted to the office by October 1.
- Requiring each early learning coalition shall use a coordinated professional development system that supports the achievement and maintenance of core competencies by school readiness teachers in helping children attain the performance standards adopted by the office.

ELCs must maintain direct enhancement services at the local level and provide access to such services in all 67 counties. The required annual report to OEL must include an evaluation of the ELC's direct enhancement services.

Coalition Plans

OEL must adopt rules prescribing the standardized format and required content of school readiness plans. The bill provides additional accountability by:

- Requiring ELCs to submit plans biennially before the expenditure of funds.
- Prohibiting an ELC from implementing its school readiness program until the plan is approved.
- Prohibiting an ELC from implementing any changes to its plan, until the changes have been submitted and approved. The plan must include:
 - The coalition's operation, including its membership and business organization.
 - The coalition's articles of incorporation and bylaws, as appropriate.
 - The minimum number of students to be served.
 - The coalition's procedures for implementing all requirements of administering the program.
 - A detailed description of the coalition's quality activities and services.
 - A detailed budget outlining the estimated expenditures for state, federal, and local maintenance of effort and matching funds at a specific level of detail.
 - A detailed accounting of all revenues and expenditures during the previous state fiscal year, in a format described by OEL.
 - Updated policies and procedures.
 - A description of the procedures for monitoring school readiness providers or for responding to a parental complaint.
 - Documentation that the coalition has solicited and considered comments regarding the proposed school readiness plan from the local community.

ELCs currently establish an age-appropriate screening, for children ages birth to 5, of each child's development and appropriate referral process for children with identified delays and implement an age-appropriate pre-assessment and post-assessment of children if it is specified in their plan. The plans must also include a description or the procedures for monitoring school readiness providers, on an annual basis, or in response to a parental complaint to verify that providers are meeting the performance standards and outcome measures adopted by the OEL.

If OEL determines during the review of school readiness plans, or through monitoring and performance evaluations, that an ELC has not substantially implemented its plan, has not substantially met the performance standards and outcome measures, or has not effectively administered the school readiness or VPK program, the office may temporarily contract with a qualified entity to continue providing services until the ELC is reestablished and a new school readiness plan is approved.

Report

The bill requires OEL to collect and report data on coalition delivery of early learning programs to be implemented beginning July 1, 2014 and results included in OEL's annual report. Elements shall include, but not be limited to, the following:

- Progress toward reducing the number of children on the waiting list.
- The percentage of students served compared to the number of administrative staff.
- Fraud intervention.
- Child attendance and stability.
- Provider payment processes.

Eligibility and Enrollment

The bill establishes, effective August 1, 2013 or upon reevaluation of eligibility, the following priorities for eligibility and enrollment in the School Readiness program:

- First priority is a child under 13 from a working family receiving from Temporary Assistance for Needy Families (TANF) and subject to the federal work requirements or transitioning from a work program into employment;
- Second priority is an at-risk child under 9;
- Third priority is child, birth to beginning of school year for which the child is eligible for kindergarten, from a working family that is economically disadvantaged; the child is no longer eligible if the family income exceeds 200% of the federal poverty level.
- Fourth priority is a child, ages 9 – 13, who is at risk; a child eligible under this priority whose sibling is enrolled in the school readiness program shall be given priority over other children;
- Fifth priority is a child ages 3-5 who has a current individual education plan with a Florida school district; child is eligible until they are old enough for kindergarten admission;
- Sixth priority is a child younger than 13 years of age from a working family that is economically disadvantaged; a child eligible under this priority whose sibling is enrolled in the school readiness program shall be given priority over other children;
- Last priority is for a child who is also concurrently enrolled in the Head Start program and the Voluntary Prekindergarten Program.

The bill additionally:

- Requires coalitions to enroll children in accordance with the eligibility priorities;
- Provides parents the opportunity to reestablish employment within 60 days (rather than the current 30 days for break in employment or 60 days for temporary break in employment due to medical reasons);
- Requires disenrollment of children to occur in reverse order of the eligibility priorities, beginning with children from families in with the highest incomes;
- Requires a notice of disenrollment be sent to the parent and school readiness provider at least 2 weeks before disenrollment; and
- Requires providers to report to the coalition if a child has been absent for five consecutive days without any parental notification.

Provider Standards and Eligibility

In addition to current standards and requirements for providers, the bill requires that providers:

- Other than informal providers, maintain a minimum general liability insurance coverage of \$100,000 and general aggregate coverage of \$300,000.
- Maintain worker's compensation insurance and any required unemployment compensation insurance.
- Maintain the coverage above, for informal providers, of homeowner's liability insurance.

- Notify the coalition of cancellation of or changes to coverage.
- Make provisions for coalitions to revoke provider's eligibility for five years if the provider refuses or fails to comply with the law or the statewide contract.

Funding – School Readiness Program

Present Situation

Funding for the School Readiness program is provided annually in the General Appropriations Act (GAA).⁴⁰ For the 2012-2013 fiscal year, a total of \$581.5 million was appropriated for the School Readiness Program from state and federal funds, including \$341.7 million from the CCDF block grant, \$98 million from the TANF block grant, \$141.3 million from the state's General Revenue Fund, and \$500,000 from other federal fund sources. Florida statute provides that the Office of Early Learning shall establish a formula for the allocation of all state and federal school readiness funds provided for children participating in the school readiness program. The formula is required to be based on equity and must be submitted to the Governor and the Legislature by January 1 of each year.⁴¹ Funding allocated for the 2012-2013 fiscal year was based on the formula submitted to the Governor and Legislature as of January 1, 2012.

Effect of Proposed Changes

The bill provides that funding shall be allocated to early learning coalitions as provided in the GAA. The bill also removes the requirement for the annual submission of a funding formula by OEL. Beginning in 2014-2015 all funding appropriated in the GAA shall be allocated using the average prior year enrollment and the uniform waiting list, as adopted by the School Readiness Estimating conference, and the average market rate.⁴²

The bill requires the OEL and each ELC to limit its expenditures to no more than 18 percent of funds for any combination of administrative costs, nondirect services, and quality activities. Of the 18 percent, no more than 5 percent may be used for administrative costs. Coalitions shall place the highest priority for the expenditure of funds on the provision of direct services for eligible children in the school readiness program.

The bill limits expenditures related to improving the quality of child care to include:

- Developing, operating, expanding, and coordinating resource and referral program.
- Awarding grants to providers to assist in meeting applicable state requirements, implementing developmentally appropriate curricula and related classroom supports, providing literacy supports, and providing professional development.
- Providing training and technical assistance on child performance standards, child screenings, child assessments, curricula, charter development, teacher-child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, recognition of communicable diseases, and child abuse detection and prevention.
- Funding for quality activities for infants and toddler care, to meet applicable federal requirements.
- Improving compliance with state and local requirements.
- Responding to Warm Line requests by providers.

The bill includes provisions for the use of funds for nondirect services that include, but are not limited to:

- Assisting families complete the application.
- Determining child eligibility.

⁴⁰ Specific Appropriation 75, ch. 2012-118, Laws of Florida.

⁴¹ Section 411.01(9), Florida Statutes.

⁴² Section 216.136(8)(a), Florida Statutes.

- Recruiting providers.
- Processing attendance records.
- Developing and maintaining a statewide information system.

The bill prohibits the use of state funds for purchase of improvement of land while providing for the use of funds for minor remodeling and upgrading of facilities.

Funding – Market Rate

Present Situation

Florida's OEL is responsible for annually calculating a market rate schedule as a provision of the Child Care and Development Block Grant that must include county by county rates by provider type including licensed child care facilities; religious exempt facilities, public and non-public schools, large family day care homes, family day care homes and those who hold a Gold Seal quality Care Designation under section 402.281, Florida Statutes. It must also differentiate rates by care level to include infants, toddlers, pre-school age, and school-age children. The market rate schedule is required to be set at the 75th percentile of a reasonable frequency distribution based exclusively on the prices charged for child care services. Each ELC then must utilize the prevailing market rate schedule to set its school readiness provider payment rates.

Effect of Proposed Changes

The bill revises the methodology for calculating the market rate schedule to require that the OEL biennially calculate the market rate at the average of the market rate by program care level and provider type in a predetermined geographic market. The average market rate will be used to allocate funding to early learning coalitions annually in the General Appropriations Act.

Investigations of Fraud

The Auditor General, in its 2012 report, included a number of findings related to the administration of the Voluntary Prekindergarten Program and the School Readiness Program, including deficiencies in early learning coalition financial management and operations. The follow-up audit still reported deficiencies in these areas, specifically, the failure to conduct student data matches to ensure child eligibility and potential improper school readiness program payments.⁴³ The bill requires the OEL to coordinate with other agencies to perform data matches on individual and families participating in the school readiness program and that fraudulent information submitted by a school readiness provider or parent will be considered a misdemeanor of the first degree, which may include a fine up to \$1,000 and imprisonment not exceeding 1 year. Additionally, the bill:

- Defines "fraud" and the processes to investigate and refer fraud to Department of Financial Services for criminal investigation or to the applicable coalition.
- Applies the provisions and consequences regarding fraud to coalitions, recipients and providers.
- Provides that coalitions may suspend or terminate a provider from participation in School Readiness or the Voluntary Prekindergarten program if it has reasonable cause to believe that the provider has committed fraud.
- Permanently bars a provider from participation if provider is convicted of fraud.
- Prohibits coalitions from contracting with a provider who is on the U.S. Department of Agriculture disqualified list.
- Requires coalitions to adopt an anti-fraud plan.
- Specifies that a person who commits an act of fraud is subject to the penalties provided in s. 414.39(5)(a), F.S.

The bill also requires the Early Learning Advisory Council to periodically analyze and provide recommendations to the office on the effective and efficient use of local, state and federal funds; the

⁴³ Florida Auditor General Report No. 2013-087 (Jan. 2013)
STORAGE NAME: pcb02.EDC
DATE: 4/5/2013

content of instructor training programs; and best practices for the development and implementation of coalition plans.

Transparency

The bill includes a number of provisions that increase transparency by:

- Requiring ELCs to provide specific requirements prior to contracting with a member of the coalition or a relative which includes approval of the contract by the office.
- Requiring OEL to publish an annual report on the office's website by January 1. The report must include a summary of coalitions' annual report, a statewide summary, an analysis of early learning activities throughout the state with specified components, and a summary of activities and expenditures related to the Child Care Executive Partnership Program.
- Requiring OEL to review ELC delivery of the early learning program.
- Requiring VPK providers to maintain any necessary business requirements to legally operate in the state including any necessary insurance.
- Requiring OEL to review and adopt minimum performance standards for VPK.
- Requiring VPK instructors to complete an online training course on the performance standards by July 1, 2014.
- Requiring OEL to include a summary of activities and expenditures related to the Child Care Executive Partnership Program in the annual report.
- Clarifying that the provision of the school readiness program is not to be construed as part of the state's K-20 education system.
- Clarifying that participation in the school readiness program does not expand the regulatory authority of the state, its officers, or any early learning coalition to impose any additional regulation on providers beyond those necessary to enforce the requirements set forth for administration of this program.
- Revising provisions related to the recognized accrediting organizations under the Gold Seal Quality Care program.

Educational Property

Current Situation

An educational institution and its property are exempt from ad valorem tax in Florida. Educational institutions often separate their property into separate corporate entities for business planning purposes. In an effort to address this situation, Florida also exempts property that is not directly owned by the educational institution, as long as the property is used exclusively for educational purposes and is owned by the identical owners of the educational institution. A recent Attorney General's opinion concluded that this exemption does not apply when both the property and the educational institution are in separate corporations and those corporations are owned by the identical people.

Effect of Proposed Changes

The bill extends the educational institution exemption to include situations when the property and the educational institution are owned by separate legal entities and those legal entities are owned by the identical people.

Reporting Requirements

The bill further provides that OEL, in collaboration with the Commissioner of Education, must develop a reorganization plan for the office by October 1, 2013. The plan must include the following:

- Any changes made prior to July 1, 2013;
- Personnel, purchasing, and budgetary matters and their alignment with the duties and responsibilities of the office;
- A report of all outstanding contractual obligations; and

- Recommendations for statutory and budgetary changes.

The report must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Afterschool Meals Program

Current Situation

The federally funded Afterschool Meal Program (AMP) was expanded to Florida and the rest of the nation by Congress in December 2010. Prior to that time, it was piloted in only 13 states and the District of Columbia. The federal regulations governing the program do not require child care licensure but do require AMP sites to meet state and local health and safety standards to participate.

Effect of Proposed Changes

The bill authorizes after school programs that are excluded from licensure to offer federally funded After School Meal Program meals, administered by the Department of Health, so long as the program is in good standing with the Department of Health and the meals meet the federal After School Meal Program requirements. The bill allows after-school programs that otherwise meet the criteria for exclusion from licensure.

B. SECTION DIRECTORY:

Section 1: Creating s. 1001.213, F.S.; establishing the Office of Early Learning in the Department of Education and providing duties thereof.

Section 2: Amending s. 1002.51, F.S.; conforming a cross-reference.

Section 3: Amending s. 1002.53, F.S.; clarifying Voluntary Prekindergarten Education Program student enrollment provisions.

Section 4: Amending s. 1002.55, F.S.; revising requirements for private prekindergarten providers and instructors; requiring State Board of Education rules; providing duties of the Office of Early Learning.

Section 5: Amending s. 1002.57, F.S.; requiring the office to adopt standards for a prekindergarten director credential.

Section 6: Amending s. 1002.59, F.S.; requiring the office to adopt standards for training courses on child performance standards.

Section 7: Amending s. 1002.61, F.S.; providing a requirement for a public school delivering a summer prekindergarten program.

Section 8: Amending s. 1002.63, F.S.; providing a requirement for a public school delivering a school-year prekindergarten program; requiring the state board to adopt rules.

Section 9: Amending s. 1002.66, F.S.; deleting obsolete provisions.

Section 10: Amending s. 1002.67, F.S.; requiring the office to adopt performance standards for students in the Voluntary Prekindergarten Education Program and approve curricula; revising provisions relating to removal of provider eligibility, submission of an improvement plan, and required corrective actions.

Section 11: Amending s. 1002.69, F.S.; providing duties of the office relating to statewide kindergarten screening, kindergarten readiness rates, and good cause exemptions for providers.

Section 12: Amending s. 1002.71, F.S.; revising provisions relating to payment of funds to providers.

Section 13: Amending s. 1002.72, F.S.; providing for the release of Voluntary Prekindergarten Education Program student records for the purpose of investigations.

Section 14: Amending s. 1002.75, F.S.; revising duties of the office for administering the Voluntary Prekindergarten Education Program.

Section 15: Amending s. 1002.77, F.S.; revising provisions relating to the Florida Early Learning Advisory Council.

Section 16: Amending s. 1002.79, F.S.; deleting certain state board rulemaking authority for the Voluntary Prekindergarten Education Program.

Section 17: Creating part VI of ch. 1002, F.S., consisting of ss. 1002.81-1002.98, relating to school readiness; providing definitions; providing powers and duties of the Office of Early Learning; providing for early learning coalitions; providing early learning coalition powers and duties for the school readiness program; providing requirements for early learning coalition plans; providing school readiness program requirements; providing school readiness program student eligibility and enrollment requirements; providing school readiness provider standards and eligibility to deliver the school readiness program; providing school readiness program funding; providing for investigation of fraud or overpayment and penalties therefor; providing for child care and early childhood resource and referral; providing for school readiness transportation services; providing for the Child Care Executive Partnership Program; providing for the Teacher Education and Compensation Helps scholarship program; providing for Early Head Start collaboration grants; providing requirements relating to infants and toddlers in state-funded education and care programs; providing for the confidentiality of records of children in school readiness programs.

Section 18: Amending s. 11.45, F.S.; conforming a cross-reference.

Section 19: Amending s. 20.15, F.S.; conforming provisions.

Section 20: Amending s. 196.198, F.S.; revising provisions relating to educational property tax exemption.

Section 21: Amending s. 216.136, F.S.; conforming a cross-reference.

Section 22: Amending s. 402.281, F.S.; revising requirements relating to receipt of a Gold Seal Quality Care designation.

Section 23: Amending s. 402.302, F.S.; conforming a cross-reference.

Section 24: Amending s. 402.305, F.S.; providing that certain child care after-school programs may provide meals through a federal program.

Sections 25 – 27: Amending ss. 445.023, 490.014, 491.014, F.S.; conforming cross-references.

Section 28: Amending s. 1001.11, F.S.; providing a duty of the Commissioner of Education relating to early learning programs.

Section 29: Repealing ss. 411.01, 411.0101, 411.01013, 411.01014, 411.01015, 411.0102, 411.0103, 411.0104, 411.0105, 411.0106, and 411.011, F.S. and incorporating those sections into the newly created Part VI of Chapter 1002.

Section 30: Authorizing specified positions for the Office of Early Learning.

Section 31: Requiring the office to develop a reorganization plan for the office and submit a report to the Governor and Legislature.

Section 32: Providing an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No.

2. Expenditures:

There may be minimal costs, but they are unknown at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Office of Early Learning is provided rulemaking authority to implement specific provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES